

REMARKS/ARGUMENTS

This Amendment is filed in response to the Final Office Action mailed December 23, 2003. In that Office Action, claims 18-41 were withdrawn. This Amendment cancels claims 18-41 without prejudice. Claims 1-6, 8-11, 13-15 and 17 were rejected under 35 U.S.C. Section 102 as anticipated by U.S. Patent 5,282,326 to Schroer, Jr. et al. Claims 7, 12 and 16 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent 5,282,326 to Schroer, Jr. et al. Claims 2-4 and 6-17 were rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite. Applicants respectfully traverse these rejections for the reasons set out hereinafter.

The rejection of claims 2-4 and 6-17 under 35 U.S.C. Section 112, second paragraph, as being indefinite is respectfully traversed. The Examiner continues to assert, without authority, that portions of the human foot differ in placement, size and shape on people who wear the same size shoe. Applicants respectfully disagree in that the shoe size does generally give the positions of such bone structure in the average foot as the bones clearly define what the foot size is. To a practical degree of precision, there seems no more definite way to properly describe the invention. Applicants clearly are not claiming a human foot, but are claiming an insole that has a certain shape, size and configuration relative the human foot to which it is intended to be used with. Thus, Applicants respectfully assert the claims are definite and meet the requirements of Section 112.

Despite the position of Applicants set forth above, Claim 2 has been amended in an effort to address the concerns of the Examiner regarding Section 112. Thus, this amended claim is also believed to fully satisfy the requirements of Section 112.

The rejection of claims 1-6, 8-11, 13-15 and 17 under 35 U.S.C. Section 102(b) as anticipated by U.S. Patent 5,282,326 to Schroer, Jr. et al is also respectfully traversed. There is no disclosure in Schroer, Jr., et al that an insole has a raised arch support portion defined by a curve having a first endpoint located on a medial edge of the insole corresponding generally to a forwardmost medial point of the longitudinal arch and a second endpoint located rearward of the first endpoint on a medial edge of the insole wherein the curve extends forwardly and laterally from the first endpoint through a point generally corresponding to a midway point between a second metatarsal head and a third metatarsal head of the foot, extends rearwardly along a medial edge of a fifth metatarsal of the foot, and extends rearwardly and medially to the second endpoint. As evidence to the contrary, the Examiner refers to Figure 1 of Schroer, Jr. et al. However, the Figure does not provide such disclosure. Applicants respectfully submit that it is not adequate teaching for a reference to have a raised portion that "appears to be located in the same area" as stated by the Examiner. It is well established that patent drawings are not blue prints. The reference clearly does not teach the critical relationships between the elements of the

claimed invention and the human foot that it contacts. The present application, however, adds to the knowledge in the art by specifically disclosing and claiming the relationships stated. As it is well understood that a proper rejection under Section 102 must disclose each and every element of the claimed invention, Applicants respectfully request the rejection be withdrawn and the claims allowed.

Similarly, Figure 3 of Schroer, Jr. et al does not disclose the curve extending across a point generally corresponding to a cuboid of the foot, a raised arch support portion with a maximum height dimension substantially midway between a first metatarsal head and an Astragalas of the human foot, or a raised arch support portion has a maximum height dimension midway between a Tibialis Aniticus of the human foot.

The rejection of claims 7, 12 and 16 as obvious over Schroer, Jr. et al is also respectfully traversed. Again, the Schroer, Jr. et al patent has no disclosure or suggestion for a curve as set forth above. Thus, these claims are believed patentable over the cited reference as well.

Applicants respectfully request that a timely Notice of Allowance be issued in this application. A petition for a one month extension of time to respond to the Office Action is filed herewith. No additional fees are believed necessary for the proper filing of this Amendment. However, if any fees are necessary, including and extension fees under Rule 136, please withdraw such fees as are necessary from Deposit Account 50-1274(10368/24701).

Respectfully submitted,



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